

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2004 JUL -2 P 12:32

DAVID MAGEE,)
Plaintiff,)
v.)
F/V IT AIN'T EASY)
and)
GRACE FISHING, INC.)
Defendants.)

CIVIL ACTION NO. 04-11215-RCL

DEFENDANTS' ANSWER TO THE PLAINTIFF'S COMPLAINT

FIRST DEFENSE

By way of affirmative defense the defendants state that the plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The defendants respond to the allegations contained in the plaintiff's Complaint paragraph by paragraph as follows.

THE PARTIES

1. The defendants have insufficient information to admit or deny the allegations contained in paragraph 1 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.
2. The defendants have insufficient information to admit or deny the allegations contained in paragraph 2 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.

FACTUAL ALLEGATIONS

3. The defendants have insufficient information to admit or deny the allegations contained in paragraph 3 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.

COUNT I (Jones Act)

4. The defendants repeat their answers to paragraphs 1 - 3, above, and incorporate them herein by reference.
5. The defendants deny the allegations contained in paragraph 5 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.
6. The defendants have insufficient information to admit or deny the allegations contained in paragraph 6 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.
7. This paragraph contains a statement of law to which no response is required.

COUNT II - UNSEAWORTHINESS

8. The defendants repeat their answers to paragraphs 1 - 7, above, and incorporate them herein by reference.
9. The defendants deny the allegations contained in paragraph 9 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.
10. The defendants have insufficient information to admit or deny the allegations contained in paragraph 10 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.
11. This paragraph contains a statement of law to which no response is required.

COUNT III - MAINTENANCE AND CURE

12. The defendants repeat their answers to paragraphs 1 - 11, above, and incorporate them herein by reference.
13. The defendants deny the allegations contained in paragraph 13 of the plaintiff's Complaint and call upon the plaintiff to prove the same at trial.

THIRD DEFENSE

By way of affirmative defense, the defendants state that if the plaintiff suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct the defendants were not and are not legally responsible.

FOURTH DEFENSE

By way of affirmative defense, the defendants state that if the defendants were negligent or its vessel unseaworthy, which it denies, then the plaintiff's injuries, if any, were contributed to by the plaintiff's own negligence to such a degree that any recovery must be reduced pro rata.

FIFTH DEFENSE

By way of affirmative defense, the defendants state that if it is found liable to the plaintiff for any of his alleged damages, the amount of such liability is limited pursuant to the provisions of the Limitation of Liability Act, 46 U.S.C.A. §§181, et. seq.

SIXTH DEFENSE

By way of affirmative defense, the defendants state that if the injury alleged was sustained, it did not occur while the plaintiff was in the service of the vessel.

SEVENTH DEFENSE

By way of affirmative defense, the defendants state that the plaintiff's action is barred by

the application of the statute of limitations.

THE DEFENDANTS DEMAND A TRIAL BY JURY ON ALL COUNTS.

The Defendants,
F/V IT AIN'T EASY and
GRACE FISHING, INC.,

REGAN & KIELY LLP



Joseph A. Regan-BBO #543504
Syd A. Saloman-BBO #645267
85 Devonshire Street
Boston, MA 02109
(617) 723-0901

DATE: 7-01-04

I hereby certify that a true copy of the
above document was served upon the
attorney of record for each party via first
class mail on 7-01-04

